

APPROVED BY THE BOARD OF SELECTMEN

**TOWN OF DARIEN
BOARD OF SELECTMEN
REGULAR MEETING
SEPTEMBER 6, 2005**

ATTENDANCE: Evonne M. Klein, First Selectwoman; Joseph Miceli;
Linda Santarella; Robert Harrel, Jr.; Barbara Thorne

STAFF: John Crary, Administrative Officer

OTHERS: John Wayne Fox, Town Counsel

CALL TO ORDER

The First Selectwoman called the Regular Meeting to order at 5:30 p.m.

1st SELECTWOMAN'S REPORT

The First Selectwoman reported that the Town of Darien will be sponsoring a relief drive for the victims of Hurricane Katrina. She stated that the Gulf Coast is in need of bottled water, batteries, blankets, canned goods, and many other items. She reported that donations may be dropped off at the Social Services office starting Thursday and the Volunteer Fire Department Chiefs will take the items to the Norwalk Armory. She added that the Red Cross is also taking cash donations. She stated that Acorn, a non-profit agency in Connecticut, is offering housing in Fairfield County for the victims. She reported that the National Guard and Disaster team have been deployed. Ms. Thorne stated that she received an email at school that the Girls Hockey Team made \$7,000 for the relief fund by holding a car wash and she commended them.

Ms. Klein reported that the opening of the high school went very well today and the busses were running on time.

The First Selectwoman reported that the dredging of three ponds by the Friends of Goodwives River, which was discussed at the last meeting, went very well. She stated that she had a request from one of the pond's owners that because a large amount of sand was to be dredged from her pond – 15 to 20 cubic yards - it will take longer than one day to dredge it. She stated that the owner has requested that if there was an additional cost, would the Town be willing to pay for it. The owner has lived there for ten years and this was the second time she has dredged the pond. Dr. Miceli commented that this was talked about before as to whether it was part of the Town's system. He stated that he

would be in favor of the additional funding if it was the Town's system. Mr. Harrel suggested that they check with Town Counsel and to also ask Bob Steeger to look at other storm drain locations to see if this occurs at other ponds.

ADMINISTRATIVE OFFICER'S REPORT

Mr. Crary stated that he had nothing to report.

SENIOR CENTER TASK FORCE REPORT

Ms. Santarella reported that she was hoping that on Wednesday she will receive a report from Jim Rongoe, the engineer hired for the Senior Center building, to see if it was structurally sound. She stated that there was a rumor/misconception with respect to the survey they were planning to do. She stated that it was a draft document, and that people are thinking that the Task Force has amended their charge, but it has not been amended. She added that if the charge was changed it would have to go back to the Board of Selectmen.

NEW BUSINESS

a) Presentation by Leah Lopez Schmalz, Connecticut Fund for the Environment re: Broadwater LNG terminal proposal.

Leah Lopez Schmalz stated that she would present a brief overview of the proposed floating LNG terminal as well as address the environmental issues for the proposed terminal. She stated that the complex would be 10 stories tall, 1200 feet long and 180 feet wide and threaten human and ecological safety in Long Island Sound. She reported that the operation could impact water quality with an increase in pollution and that other energy projects have shown no environmental success despite guarantees. She continued that, if permitted, this project would increase the number of large ships traversing the Sound by approximately 2-3 tankers per week and the tankers would be among the largest ships using the Sound. Each tanker would require a safety exclusion zone and the size would be determined by the Coast Guard. She stated that Broadwater wants an industrialized port and the public has to decide what they want for Long Island Sound and then have a plan for the future. Ms. Schmalz continued that Connecticut is not the key market for this, but New York was. They have asked Broadwater for the benefits and they have not given them concrete proof as to what it will do for Connecticut. She added that Broadwater has not filed a formal application but will probably file one in January and if the public does not get involved now they will miss the chance. She stated that she wanted the public to realize they have choices and should talk about regional planning to decide what is best for the region in meeting their needs.

Mr. Harrel asked if there were any other similar situations in the area or in the world. Ms. Schmalz replied there were none built like this, a floating industrialization, anywhere in the world, and they were all land based. She noted that there was one proposed in California which was similar to Broadwater. Ms. Thorne stated her concern for recreational fishermen and the response time by the Coast Guard now being slow. Ms. Schmalz replied that the Coast Guard is doing a ports and waterway assessment and recreational fishermen should go to the Coast Guard meetings to voice their concerns

b) Update on status of Holly Pond.

Frank Kemp of the Advisory Commission on Coastal Waters introduced Carlo Leone, State Representative, 148th District of Stamford. Mr. Leone reported that as it stands now there is \$1.65 million for the dredging of Holly Pond from the mouth of the river to the length of Giovanni's Restaurant. He stated that two weeks ago the DEP did a land survey and the next step is a sample soil test which should occur in September. He stated that the depth of the contaminants will determine the cost and that will not be known until a sample soil test was performed.. He reported that he was trying to obtain bonding and had spoken to Mayor Malloy and First Selectwoman Klein if additional money is needed. He continued that Holly Pond will need to be corrected as well as dredged and the big unknown was the kind of contaminants that were coming from up river.

Dr. Miceli asked if this included the repair of the dam. Mr. Leone replied it was strictly for dredging Holly Pond. He stated that once he works together with the DEP and DOT it will be easier to tackle the dam. Mr. Kemp stated that the Town of Darien did a survey to repair the dam a few years ago and the dam was not getting any better. He stated the height of the water is 10-12" below where it should be if the dam was working properly. He added that they have to do the dredging but it won't look right because the dam is leaking.

c) Discuss Draft Noise Ordinance

The Board reviewed the Draft Noise Ordinance. Wayne Fox stated that this was much more detailed than what they had now in the Code and it was based on Stamford's ordinance. He advised the Board to hold a public hearing to have input from the citizens.

Ms. Santarella asked if New Canaan had a noise ordinance and Ms. Klein replied that they did not have one - Stamford and Greenwich did. Ms. Santarella asked how successful Stamford was with the ordinance and Town Counsel replied that he had spoken to people that said it worked reasonably well. Ms. Klein stated that she will work with John Crary to come up with public hearing dates.

d) Discuss Draft Ordinance regarding Darien Harbors.

Sandy McDonald, Chairman of the Advisory Commission on Coastal Waters, was present.

He called attention to two letters dated March 27, 2002 and March 18, 2003 in which he recommended changes to the ordinance but no action was ever taken and they were still pending. He stated the changes were necessary in order to define the jurisdiction of the Harbor Master in the Darien Waters part of Holly Pond and to clarify ambiguity as to which "Boats and Harbors" ordinance, 1965 or 1985, was actually approved and in effect. He continued that the proposed ordinance also adds a harbor to Darien, Fish Islands, in order to support the Darien Police and the CT/DEP boat speed and boat handling responsibilities.

Ms. Santarella asked if the proposed revisions in the letter dated March 27, 2002 were reviewed by the Advisory Commission. Mr. McDonald replied that they were unanimously approved. Ms. Thorne stated that this had been a long time coming and she was glad to see it in front of them. Ms. Klein asked Town Counsel if this needed to go to a public hearing and he replied that it did not have to, but it was a good idea. Mr. Lincoln Jewett distributed a visual aid that showed the Darien harbors. Ms. Klein stated that she would put this item on the agenda of the Board of Selectmen's October meeting and thanked Mr. McDonald for making the draft ordinance easy reading.

- e) **Discuss and Take Action on modifying the commencement date of Supplemental Agreement with State of Connecticut, Department of Transportation re: Darien and Noroton Heights Railroad Stations and lots.**

Ms. Klein stated that there was a change on Page 2 which states that the term of the Lease is for a six year period of time commencing July 1, 2004.

- ** **DR. MICELI MOVED TO MODIFY THE COMMENCEMENT DATE OF THE SUPPLEMENTAL AGREEMENT WITH THE STATE OF CONNECTICUT, DEPARTMENT OF TRANSPORTATION, RE: DARIEN AND NOROTON HEIGHTS RAILROAD STATION AND LOTS.**
- ** **MS. THORNE SECONDED.**
- ** **MOTION PASSED UNANIMOUSLY.**

- f) **Take Action on Resolution appropriating proceeds from the default of Pipe & Power Mechanical.**

Wayne Fox stated that this appropriation was due to the contractor's failure to complete the work on the Darien High School under the original contract. He stated that in compliance of the original contract, the National Grange Mutual Insurance Company, as surety, had executed and delivered a Performance Bond and a Payment Bond naming the Town as Owner and the Former Contractor as Bond Principal. A new contractor was hired to completed the work and now in accordance with its bond obligation, The National Grange Mutual Insurance Company has forwarded to the Town a total sum of \$399,440.15 representing the shortfall of monies between the contract balances and the completion price,

to be paid to the completion contractor. Town Counsel stated that the Town's Auditor has advised the Finance Officer that the sum should be appropriated as an expenditure in conjunction with the construction of the new high school and this resolution does this.

Ms. Thorne asked if the work got done and Wayne Fox replied that it did. Mr. Joseph Warren asked what the procedure was and that the Rules and Regulations Committee would want the answers. Wayne Fox stated that the Town Auditor came to him and stated that this appropriation had to come before the appropriate Board. Mr. Warren stated that this made the budget for the high school look bigger but it was not because the project had a problem, but because the contractor created it. He questioned a referendum. Mr. Harrel stated that the key to the referendum issue was that this does not lay on the taxpayer any other burden and the public did not have the right to referendum this issue. Dr. Miceli asked if this was normal accounting procedure and Wayne Fox replied that it was.

Ms. Klein waived the reading of the Resolution.

**** MR. HARREL MOVED THE RESOLUTION APPROPRIATING PROCEEDS
FROM THE DEFAULT OF PIPE & POWER MECHANICAL. (ATTACHED).
** MS. THORNE SECONDED.
** MOTION PASSED UNANIMOUSLY.**

g) Take Action on Resolution appropriating \$2,100,000 for design and construction for sewer projects.

Ms. Thorne reported that a lot of residents that were affected by this had called her and she was assured by the Sewer Commission that their concerns were listened to and suggestion and design were addressed.

Ms. Klein waived the reading of the Resolution.

**** MS. SANTARELLA MOVED THE RESOLUTION APPROPRIATING
\$2,100,000 FOR DESIGN AND CONSTRUCTION FOR SEWER PROJECTS.
** MS. THORNE SECONDED.
** MOTION PASSED WITH FOUR IN FAVOR (KLEIN, THORNE,
SANTARELLA, MICELI) AND ONE ABSTENTION (HARREL).**

h) End of Year Budget Transfers:

a. Medical Insurance

The incurred but not reported claims needed to be recalculated after some journal entries were made to this account. This amount is needed to cover the estimated claims recorded.

RESOLVED:

That the following transfer of appropriations is approved for referral to the Board of Finance:

From:			To:		
Acct. No.	Account	Amount	Acct. No.	Account	Amount
10704000-86600	Contingency	19,600	10701001-82100	Medical Insurance	25,000
	Health – Op				
10508011-83007	Supplies	3,700			
10813740-82007	Servicing Bonds	1,700			
	TOTAL	25,000		TOTAL	25,000

**** MS. SANTARELLA MOVED THAT THE FOLLOWING TRANSFER OF APPROPRIATIONS IS APPROVED FOR REFERRAL TO THE BOARD OF FINANCE:**

From:			To:		
Acct. No.	Account	Amount	Acct. No.	Account	Amount
10704000-86600	Contingency	19,600	10701001-82100	Medical Insurance	25,000
	Health – Op				
10508011-83007	Supplies	3,700			
10813740-82007	Servicing Bonds	1,700			
	TOTAL	25,000		TOTAL	25,000

**** MS. THORNE SECONDED.**
**** MOTION PASSED UNANIMOUSLY.**

2. Public Works – Building Management

Several unexpected invoices came in within the past month. This transfer is needed to cover the expenses.

RESOLVED:

That the following transfer of appropriations is approved for referral to the Board of Finance:

From:			To:		
Acct. No.	Account	Amount	Acct. No.	Account	Amount
10402144-82041	Paving Services	3,353	10407011-82041	Facility Repair	3,353
	TOTAL	3,353		TOTAL	3,353

**** MR. HARREL MOVED THAT THE FOLLOWING TRANSFER OF APPROPRIATIONS IS APPROVED FOR REFERRAL TO THE BOARD OF FINANCE:**

From:			To:		
Acct. No.	Account	Amount	Acct. No.	Account	Amount
10402144-82041	Paving Services	3,353	10407011-82041	Facility Repair	3,353
TOTAL		3,353	TOTAL		3,353

**** MS. THORNE SECONDED.**
**** MOTION PASSED UNANIMOUSLY.**

PUBLIC COMMENT

Mr. C. Lincoln Jewett, Darien resident, stated he had some comments to the presentation made by Ms. Schmalz. He reported that she had unintentionally made some incorrect statements by stating the project was just for the benefit of a few, when it would be for thousands in Connecticut and New York who need gas. He said that her statement that it would hurt the economy was incorrect because gas is used for making chemicals and generating electricity so it would help. He stated that there are hundreds of LNG plants all over the world and he distributed a list of LNG facilities. He stated that there would be no LNG ships going by Darien because they would be 40 miles away. Mr. Jewett concluded by stating that there is a need for energy and it is important for the economy and this was nothing new for Connecticut.

Ms. Cheryl Russell asked how far away the LNG terminal was going to be and Ms. Schmalz replied it would be 9 miles from New York and 75 miles from Connecticut.

FORTHCOMING MEETINGS

- a) September 6, 2005 Board of Finance Special meeting at 7:45 p.m.
- b) September 6, 2005 Planning & Zoning Planning Meeting at 8:00 p.m.
- c) September 13, 2005 Planning & Zoning General Meeting at 8:00 p.m.
- d) September 19, 2005 Board of Selectmen Regular Meeting at 7:30 p.m.
- e) September 21, 2005 Parks & Recreation Commission Meeting at 7:30 p.m.
- f) September 26, 2005 RTM Meeting at 8:15 p.m.
- g) September 27, 2005 Planning & Zoning Public Hearing at 8:00 p.m.

OTHER BUSINESS

(A two-thirds majority vote is required to add an item to the agenda)

- ** MS. SANTARELLA MOVED TO ADJOURN THE MEETING.**
- ** DR. MICELLI SECONDED.**
- ** MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 6:55 p.m.

Respectfully Submitted,

Donna DeVito
Telesco Secretarial Services